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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,743

07/30/2004

Matheus Nogueira

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4742

23718

7590

02/28/2006

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EXAMINER

GAY, JENNIFER HAWKINS

ART UNIT

PAPER NUMBER

3672

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/710,743		NOGUEIRA ET AL.	
	Examiner		Art Unit	
	Jennifer H. Gay		3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13, 16, 17, 21-32 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 10, 14, 15, 18-20, 33, 37 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract includes the implied phrase "A method and apparatus is provided". Correction is required. See MPEP § 608.01(b).
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.
The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

3. Claims 1, 2, 7, 10, 16, 19-25, 30, and 33 are objected to because of the following informalities:
 - Claims 1, 2, 7, 10, 16, 19, 20, 23-25, 30, and 33 are objected to because "and combinations thereof" should be changed to --or combinations thereof--.
 - Claim 21 is objected to because it appears that claim 21 should depend from claim 17 as claim 16 does not recite separation of the fluid.
 - Claim 22 is objected to because it appears that claim 22 should depend from claim 21 as claim 16 does not recite separation of the fluid sample to be able to dump only the contaminated portion into the borehole.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-8, 11-13, 16, 23-32, and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. (US 6,467,544)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1, 24: Brown et al. discloses a downhole sampling tool that includes the following features:

- A probe **10** for formation fluid into the tool.
- A main flow line **44, 54** extending from the probe for passing fluid from the probe into the tool.
- At least one sample chamber **110** connected to the main flow line.
- An exit flow line **116** connected to the sample chamber for selectively removing either clean fluid (7:30-57, 10:22-51).

Regarding claims 2, 25: The tool is a wireline tool.

Regarding claims 3, 26: The at least one sample chamber includes multiple sample chambers (8:37-42, Figure 3). The tool further includes a transfer line **54** for passing at least a portion of the fluid from a first to a second sample chamber.

Regarding claims 4, 27: The exit flow line is connected to a second sample chamber for passing at least a portion of the formation fluid from the first chamber to the second via the transfer line.

Regarding claims 5, 28: The tool further includes a dump flowline **95** for passing fluid from the main flow line to the borehole.

Regarding claims 6-8, 16, 29-31: The tool further includes sensors and fluid analyzers in the flow line and sample chambers.

Regarding claims 11, 34: The sample chamber includes a piston **112** that separates the chamber into a sample cavity **110c** and a buffer cavity **110p**.

Regarding claims 13, 14, 35, 36: The exit flow line can be used to either dump contaminated fluid into the borehole or clean fluid into a second sample chamber.

Regarding claim 16: Brown et al. further discloses a method for sampling formation fluid using the above tool.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 17, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. in view of Savage et al. (US 4,962,665).

Brown et al. discloses all of the limitations of the above claims except for the tool including a fluid separator for separating the clean portion of the sample from the contaminated portion.

Savage et al. discloses a sampling system similar to that of Brown et al. Savage et al. further teaches the use of a fluid separator **70** located in the tool for separating the fluid sample into clean fluid and contaminated fluid.

It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the tool of Brown et al. to include a fluid separator as taught by Savage et al. in order to have been able to obtain a more accurate resistivity reading of the collected fluid (1:32-51).

Regarding claims 21 and 22: The clean fluid obtained from the separation is sent to a sample chamber and the contaminated fluid is dumped into the wellbore.

Allowable Subject Matter

8. Claims 10, 14, 15, 18-20, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. It is noted that the amendment filed November 7 2005 has also been received and entered into the case.

10. In view of applicant's amendment, the objection to the abstract and claims has been withdrawn.

11. Applicant's arguments filed December 15 2005 have been fully considered but they are not persuasive.

Applicant has argued that Brown et al. does not teach selectively removing clean fluid, contaminated fluid, or combinations thereof from the sample chamber. While the examiner agrees that it is not taught to remove contaminated fluid from the sample chamber, column 10, lines 22-51 disclose selectively removing at least a small volume of clean fluid from the sample chamber at a desired point in time, i.e. just prior to collecting the sample.

Applicant has further argued that Brown et al. does not teach choosing to remove either clean or contaminated fluid from the sample chamber. While the examiner agrees

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that Brown et al. does not teach this feature, it is noted that the independent claims do not recite choosing which type of fluid to remove from the sample chamber.

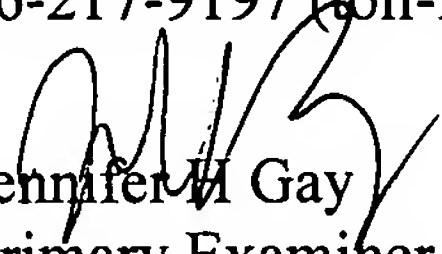
In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

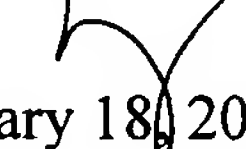
Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer H. Gay whose telephone number is (571) 272-7029. The examiner can normally be reached on Monday-Thursday, 6:30-4:00 and Friday, 6:30-1:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer H. Gay
Primary Examiner
Art Unit 3672

JHG 
January 18, 2006